

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS, CORPUS CHRISTI DIVISION

AHMED ISMAIL AND LISA
BARROW, husband and wife

Plaintiffs

v.

VOLVO TRUCKS NORTH
AMERICA, INC. and NUSS TRUCK
AND EQUIPMENT

Defendant

§ CIVIL ACTION NO. _____

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§ JURY TRIAL DEMANDED

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PLAINTIFFS' COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Ahmed Ismael and Lisa Barrow, husband and wife, complaining of Volvo Trucks North America, Inc. and Nuss Truck and Equipment, and for cause of action would show:

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between the Plaintiffs and Defendants and Plaintiffs allege an amount in controversy in excess of \$75,000, exclusive of interest and costs.

2. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391, as a substantial part of the events giving rise to this action occurred within this district and division.

Parties

3. Plaintiffs Ahmed Ismail and Lisa Barrow are married, adult citizens who reside in York County, Pennsylvania.

4. Defendant Volvo Trucks North America, Inc. is a Delaware Corporation, headquartered at 7900 National Service Road, Greensboro, North Carolina 27409 which conducts business within the State of Texas.

5. Defendant Nuss Truck and Equipment is a Minnesota corporation with a primary place of business at 6500 Hwy 63 S, Rochester, Minnesota 55904 which conducts business within the State of Texas.

Facts

6. Plaintiff, Ahmed Ismail is an independent contractor who worked as a tractor-trailer driver prior to his motor vehicle accident.

7. Mr. Ismail leased a 2016 model year truck-tractor from Anderson Trucking Service, Inc. (“ATS”), located at 725 Opportunity Drive, St. Cloud, Minnesota 56301, ATS fleet number 84247, and drove this truck-tractor in his business prior to his motor vehicle accident. The truck-tractor leased by Mr. Ismail has VIN number 4V4NC9EH4GN930999, and was a VN780 model. This model and VIN number fell under an Urgent Volvo Safety Recall, which is Recall 16V-097000.

8. On February 22, 2016, Mr. Ismail was driving his leased truck-tractor in the vicinity of Corpus Christi, Texas, in Nueces County, when the steer axle became dislodged from the suspension mounting interface on the left side causing the steer axle to move rearward, forcing the truck to turn left, and rendering it incapable of being controlled.

9. Mr. Ismail lost control of the truck and it turned left, across two eastbound travel lanes, through a grass median, became airborne, landed and passed through two westbound travel lanes before striking a power pole and coming to rest in a farm field.

10. As a result of the defective steer axle mount, and the resulting accident, Mr. Ismail has suffered: a concussion, vertigo, memory loss, decreased motor skills, decreased cognitive abilities, and has been unable to work since the accident.

11. Mr. Ismail has incurred medical bills, lost wages, suffered permanent total disabilities, past and future pain and suffering, and a loss of life's pleasure and a claim is made for the same.

12. The truck-tractor Mr. Ismail was driving at the time of the Accident was manufactured on January 15, 2015 by Volvo Trucks North America.

13. Nuss Truck and Equipment was responsible for pre-delivery service of the truck-tractor.

Causes of Action

Negligence

Ahmed Ismail and Lisa Barrow, husband and wife v. Volvo Trucks North America, Inc.

14. All of the preceding paragraphs are incorporated herein by reference.

15. All of Plaintiffs' damages are the direct and proximate result of the negligence of Defendant Volvo Trucks North America, Inc. in manufacturing and selling the subject truck-tractor in a defective, unreasonably dangerous state and in failing to exercise reasonable care in the design and manufacture of the subject truck-tractor.

16. At all times relevant to this case, Defendant had a duty to properly manufacture, test, inspect, distribute, market, examine, maintain, supply, provide proper warnings, prepare for use, and sell aforementioned truck-tractor.

17. At all times relevant to this case, Defendant knew or should have known that the truck-tractor was of such a nature that if it was not manufactured, tested, inspected, distributed, marketed, examined, maintained, supplied, properly forewarned, prepared, and sold, it was likely to injure the products user.

18. As a result of Defendant breaching its duty, Plaintiffs have suffered substantial injuries.

19. Plaintiffs aver that Volvo Trucks North America, Inc.'s outrageous conduct and reckless disregard for the safety of customers, including Plaintiffs, warrants punitive damages and a claim is made for same.

Strict Product Liability

Ahmed Ismail and Lisa Barrow, husband and wife v. Volvo Trucks North America, Inc.

20. All of the preceding paragraphs are incorporated herein by reference.

21. Volvo Trucks North America is strictly liable to Plaintiffs for the damages alleged that were caused by the defective design or the defective manufacture of the truck-tractor.

22. Defendant Volvo Trucks North America designed, manufactured, sold and determined the warnings accompanying the truck-tractor, all of which were unreasonably dangerous to Plaintiff, an intended user. These defects were a producing cause of Plaintiffs' injuries.

23. The truck-tractor manufactured by the Defendant was defective and led to Ahmed Ismail's injuries. With regard to the truck-tractor's design, a safer alternative design existed which would have prevented or significantly reduced the likelihood of injury to Mr. Ismail, and

was economically and technologically feasible at the time the truck-tractor left Volvo Trucks North America's control.

24. The truck-tractor possessed a manufacturing defect in that it deviated in its construction quality from its planned output, rendering it unreasonably dangerous.

25. Plaintiffs had a reasonable expectation that the products marketed and sold by Defendants would be safe to use and would not suffer from defects which could lead to serious injury.

26. Plaintiff avers Volvo Trucks North America's outrageous conduct and reckless disregard for the safety of customers, including Plaintiff, warrants punitive damages and claim is made for same.

Negligence

Ahmed Ismail and Lisa Barrow, husband and wife v. Nuss Truck And Equipment

27. All of the preceding paragraphs are incorporated herein by reference.

28. All of Plaintiffs damages are the direct and proximate result of the negligence of Defendant Nuss Truck and Equipment in inspecting the subject truck-tractor upon receipt from the manufacturer.

29. At all times relevant to this case, Defendant Nuss Truck and Equipment had a duty to properly inspect, test, examine, and determine the safety of the subject truck-tractor. This was not properly done.

30. At all times relevant to this case, Defendant Nuss Truck and Equipment knew or should have known that if the truck-tractor was of such a nature that it was not manufactured, inspected, or cared for properly it was likely to injure the products user.

31. As a result of Defendants breaching their duty, Plaintiffs suffered severe injuries.

32. Plaintiffs aver that Nuss Truck and Equipment's outrageous conduct and reckless disregard for the safety of its customers, including Plaintiffs, warrants punitive damages and a claim is made for same.

Damages

Claim I – Damages

Ahmed Ismail v. Volvo Trucks North America

33. All of the preceding paragraphs are incorporated herein by reference.

34. Plaintiff Ahmed Ismail suffered painful and severe injuries which include but are not limited to concussion, vertigo, memory loss, decreased motor skills, decreased cognitive abilities, neck injury, back injury, and headaches.

35. As a result of his accident, Plaintiff Ahmed Ismail has incurred medical bills and expects to have similar bills in the future and a claim is made therefore.

36. Because of the nature of his injuries, Plaintiff Ahmed Ismail has been unable to work since his accident on February 22, 2016, and will be unable to work for the foreseeable future. A claim is made for past and future lost wages and for the permanent total impairment of his earning capacity.

37. Plaintiff Ahmed Ismail has undergone and in the future will undergo physical and mental suffering, inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, disfigurement, and claim is made therefore.

38. Because of Volvo Trucks North America's outrageous conduct and reckless disregard for the safety of customers, including Plaintiffs, Plaintiff Ahmed Ismail is entitled to punitive damages and claim is made therefore.

Claim II – Damages

Ahmed Ismail v. Nuss Truck And Equipment

39. All of the preceding paragraphs are incorporated herein by reference.

40. Plaintiff Ahmed Ismail suffered painful and severe injuries which include but are not limited to concussion, vertigo, memory loss, decreased motor skills, decreased cognitive abilities, neck injury, back injury, and headaches.

41. As a result of his accident, Plaintiff Ahmed Ismail has incurred medical bills and expects to have similar bills in the future and a claim is made therefore.

42. Because of the nature of his injuries, Plaintiff Ahmed Ismail has been unable to work since his accident on February 22, 2016, and will be unable to work for the foreseeable future. A claim is made for past and future lost wages and for the permanent total impairment of his earning capacity.

43. Plaintiff Ahmed Ismail has undergone and in the future will undergo physical and mental suffering, inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, disfigurement, and claim is made therefore.

44. Because of Nuss Truck and Equipment's outrageous conduct and reckless disregard for the safety of its customers, including Plaintiffs, Plaintiff Ahmed Ismail is entitled to punitive damages and a claim is made therefore.

Claim III – Consortium

Lisa Barrow v. Volvo Trucks North America

45. All of the preceding paragraphs are incorporated herein by reference.

46. As a result of the aforementioned injuries sustained by her husband, Plaintiff Ahmed Ismail, Plaintiff Lisa Barrow has been and will in the future be deprived of the care,

companionship, consortium, and society of her husband, all of which will be to her great detriment, and claim is made therefor.

47. Because of Volvo Trucks North America's outrageous conduct and reckless disregard for the safety of its customers, including Plaintiffs, Plaintiff Lisa Barrow is entitled to punitive damages and a claim is made therefore

Claim IV – Consortium

Lisa Barrow v. Nuss Truck And Equipment

48. All of the preceding paragraphs are incorporated herein by reference.

49. As a result of the aforementioned injuries sustained by her husband, Plaintiff Ahmed Ismail, Plaintiff Lisa Barrow has been and will in the future be deprived of the care, companionship, consortium, and society of her husband, all of which will be to her great detriment, and claim is made therefor.

50. Because of Nuss Truck and Equipment's outrageous conduct and reckless disregard for the safety of its customers, including Plaintiffs, Plaintiff Lisa Barrow is entitled to punitive damages and a claim is made therefore

WHEREFORE, Plaintiffs, Ahmed Ismail and Lisa Barrow, husband and wife, demand judgment against Volvo Trucks North America and Nuss Truck and Equipment in an amount in excess of Seventy-Five Thousand (\$75,000) Dollars, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

Jury Demand

51. Plaintiffs request a jury in this cause.

Respectfully submitted,

ANGINO LAW FIRM, P.C.

/s/ Robert Sigler with permission
Richard C. Angino, Esquire
(admission *pro hac vice* to be filed)
PA I.D. No. 07140
4503 N. Front Street
Harrisburg, PA 17110
(717) 238-6791
Email: rca@anginolaw.com
Attorney for Plaintiffs
Attorney-in-Charge for Plaintiffs

Of counsel:

Robert J. Sigler
Federal ID No. 12586
Texas Bar No. 18347750
Bandas Law Firm, P.C.
500 N. Shoreline Blvd, Ste 1020
Corpus Christi, Texas 78471
Tel. 361.698.5200
Fax. 361.698.5222
E-mail: rsigler@bandaslawfirm.com
Local Counsel for Plaintiffs